



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Robert M. Telthorst
Register Number: 22710-031
FCI El Reno
El Reno, OK 73036

SEP 19 2014

RE: MUR 6867

Dear Mr. Telthorst:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting you may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On September 9, 2014, the Commission found reason to believe that you knowingly and willfully violated 52 U.S.C. §§ 30102(b)(3), 30104(b), and 30114 (formerly 2 U.S.C. §§ 432(b)(3), 434(b), and 439a), provisions of the Act. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

We have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act. In addition, please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519. In the meantime, this matter will remain confidential in accordance with 52 U.S.C. §§ 30109(a)(4)(B) and 30109(a)(12)(A) (formerly 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A)), unless you notify the Commission in writing that you wish the investigation to be made public.

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to you as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that you violated the law.

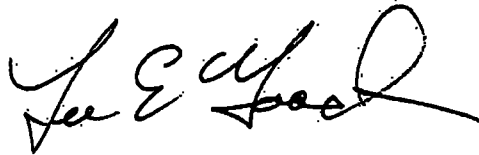
1-800-441-2000

If you are interested in engaging in pre-probable cause conciliation, please contact Tracey L. Ligon, the attorney assigned to this matter, at (202) 694-1650 or (800) 424-9530, within seven days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. *See* 52 U.S.C. § 30109(a) (formerly 2 U.S.C. § 437g(a)), 11 C.F.R. Part 111 (Subpart A). Conversely, if you are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed Designation of Counsel form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

We look forward to your response.

On behalf of the Commission,



Chairman

Enclosures
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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Robert M. Telthorst

MUR: 6867

I. INTRODUCTION

This matter was generated based on information ascertained by the Federal Election Commission (the "Commission") in the normal course of carrying out its supervisory responsibilities. *See* 52 U.S.C. § 30109(a)(2) (formerly 2 U.S.C. § 437g(a)(2)). Based on this information, there is reason to believe that Robert M. Telthorst knowingly and willfully failed to file accurate reports in connection with his duties as treasurer of Lynn Jenkins for Congress (the "Committee"), commingled the Committee's funds with personal funds, and converted campaign funds to personal use, in violation of 52 U.S.C. §§ 30102(b)(3), 30104(b), and 30114 (formerly 2 U.S.C. §§ 432(b)(3), 434(b), and 439a) of the Federal Election Campaign Act of 1971, as amended (the "Act").

II. FACTUAL AND LEGAL ANALYSIS

Lynn Jenkins was a 2010 candidate in Kansas's 2nd Congressional District, and Lynn Jenkins for Congress and Heather Grote in her official capacity as treasurer was her principal campaign committee.¹ Robert Telthorst was the Committee's treasurer from April 19, 2009, to February 24, 2010.

In the summer of 2009, Telthorst proposed putting approximately \$21,000 of campaign funds in a CD account for the Committee. Patrick Leopold, Rep. Jenkins's chief of staff, approved the proposal believing the CD account would be opened at INTRUST Bank, the existing depository for the Committee. Contrary to Leopold's authorization, Telthorst

¹ Jenkins won the 2010 election and was re-elected in November 2012. The Committee has continually been Jenkins's principal campaign committee.

instead opened a checking account at Bank of America under the name "Rob Telthorst d/b/a Lynne Jenkins for Congress," deposited three checks totaling \$21,300 drawn from the Committee's INTRUST account, and repeatedly withdrew and returned funds from the Bank of America account for his own purposes.

The Committee hired an independent auditor who conducted a review of the Committee's books and records during the time Telthorst was treasurer. The audit confirmed that Telthorst wrote three checks from the Committee's INTRUST account totaling \$21,300 and deposited them into the Bank of America account. Of that amount, \$16,800 was disbursed by two checks dated August 28, 2009, to "Lynn Jenkins for Congress CD account," and \$4,500 was disbursed by check dated September 1, 2009, to "Consolidated Lease & Fin 30-Day CD."

The Committee terminated Telthorst in February 2010 for reasons unrelated to his opening and use of the Bank of America checking account, which the Committee was apparently still unaware of at that time. In April 2010, the Committee's new treasurer, Kurt Bossert, reportedly learned of the Bank of America account when he found a statement from the account.² Leopold questioned Telthorst about the account, and Telthorst reportedly stated that he made the transfer in order to get a CD but never completed the transaction; Telthorst also stated that he would close that account. On April 8, 2010, Telthorst deposited a \$21,308.92 check drawn from an account named "Robert M. Telthorst Sole Prop DBA Lynn Jenkins for Congress" into the Committee's INTRUST account, making the Committee's campaign funds whole.

² Bossert was treasurer from February 25, 2010, to May 8, 2013.

III. LEGAL ANALYSIS

Under the Act, a committee, through its treasurer, is required to keep an accurate account of and disclose its receipts, disbursements, and cash-on-hand balances. *See* 52 U.S.C. §§ 30102(c), 30104(b) (formerly 2 U.S.C. §§ 432(c), 434(b)); 11 C.F.R. §§ 104.3, 104.14(d). Committees are required to file reports with the Commission through their treasurers disclosing, among other things, the amount of cash on hand at the beginning of the reporting period and the total amount of disbursements, including the name and address of each person to whom an expenditure exceeding \$200 is made together with the date, amount, and purpose of the expenditure. *See* 52 U.S.C. § 30104(b)(1), (2), (4)(G), (5), (6)(A) (formerly 2 U.S.C. § 434(b)(1), (2), (4)(G), (5), (6)(A)). The Act and Commission regulations prohibit any person from converting contributions to a federal candidate to personal use, 52 U.S.C. § 30114(b)(1) (formerly 2 U.S.C. § 439a(b)(1)), and further require that all funds of a political committee be "segregated from, and may not be commingled with, the personal funds of any individual." *Id.* § 30102(b)(3) (formerly 432(b)(3)); 11 C.F.R. § 102.15.

According to the Commission's *Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings*, a former treasurer may be named as a respondent in his or her personal capacity when it appears that the treasurer may have violated obligations imposed by the Act or Commission regulations and where the violation was knowing and willful. 70 Fed. Reg. 3, 5 (Jan. 3, 2005); *see* MUR 6539 (Joe Green); MUR 6475 (Andrew McCrosson); MUR 6179 (Christopher Ward); MUR 5971 (Jennifer Adams); MUR 5721/5772 (Kenneth Phelps); MUR 5610 (Earl Allen Haywood). A violation is knowing and willful where the unlawful "acts were committed with full knowledge of all the relevant facts and a recognition that the action is prohibited by law." 122 Cong. Rec. 12197, 12199 (May 3, 1976). It is

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undisputed that, while serving as treasurer of the Committee, Telthorst made three withdrawals of Committee funds totaling \$21,300, which he deposited in an account under his control outside of the Committee's depository bank, and did not disclose the withdrawals on reports filed with the Commission. His failure to report the withdrawals is evidence that he knew he was not authorized to make withdrawals of the Committee's funds for a personal account, and needed to hide these withdrawals. We therefore conclude that Telthorst knowingly and willfully violated 52 U.S.C. § 30104(b) (formerly 2 U.S.C. § 434(b)) by failing to file accurate reports with the Commission.

We also conclude that Telthorst knowingly and willfully violated 52 U.S.C. § 30114 (2 U.S.C. § 439a) by converting campaign funds to personal use. It is undisputed that Telthorst deposited the \$21,300 in Committee funds into an account that he opened in his own name, as a sole proprietor doing business as Lynn Jenkins for Congress; and, according to the Committee, the FBI advised it that Telthorst repeatedly withdrew and returned funds from that account for his own purposes. That Telthorst kept the account a secret from the Committee is evidence that he knew he was acting illegally.

In addition, by depositing campaign funds into an account held by him personally, *i.e.*, "Robert M. Telthorst Sole Prop DBA Lynn Jenkins for Congress," and subsequently withdrawing and depositing funds into that account for personal purposes, Telthorst also knowingly and willfully mixed Committee funds with personal funds in violation of the Act's prohibition against commingling "funds of a political committee . . . with[] the personal funds of any individual." 52 U.S.C. § 30102(b)(3) (formerly 2 U.S.C. § 432(b)(3)); *see* MUR 6526 (Cora Carper) (finding reason to believe that respondent knowingly and willfully violated

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section 432(b)(3) (now section 30102(b)(3)) where she made cash deposits into a personal bank account after cashing unauthorized committee checks).

Accordingly, there is reason to believe that Robert M. Telthorst knowingly and willfully violated 52 U.S.C. §§ 30102(b)(3), 30104(b), and 30114 (formerly 2 U.S.C. §§ 432(b)(3), 434(b), and 439a).